

2005 SENATE BILL 79

1 **AN ACT** *to create* 196.371 and 196.39 (5) of the statutes; **relating to:** specifying
2 the rate-making principles applicable to certain electric generating facilities
3 and granting rule-making authority.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 2.** 196.371 of the statutes is created to read:

5 **196.371 Rate-making principles for electric generation facilities. (1)**

6 **DEFINITION.** In this section, “certificate” means a certificate issued under s. 196.49
7 (3) or 196.491 (3).

8 **(2) APPLICATION.** A public utility that proposes to purchase an electric
9 generating facility or that applies for a certificate for the construction of an electric
10 generating facility may apply to the commission for an order specifying in advance

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1 the rate-making principles that the commission shall apply to the public utility's
2 recovery of the capital costs of the facility, including the purchase price and any
3 necessary modifications or improvements to the facility at the time of the purchase,
4 in future rate-making proceedings. In applying for an order under this section, a
5 public utility shall describe the public utility's proposal for the recovery of such costs,
6 including all of the following:

7 (a) The economic useful life of the facility.

8 (b) The proposed return on equity and rate of return for the facility.

9 (c) The proposed financing mechanisms for the facility.

10 (d) The proposed method for determining the costs that may be recovered in
11 rates.

12 (e) Any other proposals or information regarding the recovery of the costs that
13 the public utility determines are necessary for providing certainty to the public
14 utility, investors, and ratepayers in future rate-making proceedings.

15 (f) Any other information specified by the commission.

16 **(3) PROCEDURE.** (a) The commission shall conduct a hearing on an application
17 for an order under this section. The commission may hold the hearing in conjunction
18 with a hearing, if any, on the application for the certificate or the commission may
19 hold a separate hearing on the application for the order. If the public utility has
20 applied for a certificate for the facility, the commission shall determine whether to
21 deny an application for an order or to issue an order no later than the date that the
22 commission takes final action on the application for the certificate. If the public
23 utility has not applied for a certificate, the commission shall determine whether to
24 deny an application for an order or to issue an order no later than 180 days after the
25 commission determines that the application for the order is complete using the

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1 method and deadlines specified under s. 196.491 (3) (a) 2. The commission may issue
2 an order if the commission determines that the order will provide a sufficient degree
3 of certainty to the public utility, investors, and ratepayers with respect to future
4 recovery of the facility's capital costs and that the order is otherwise in the public
5 interest.

6 (am) The commission shall specify in an order under this section a deadline at
7 least 60 days after the date of issuance of the order for the public utility to notify the
8 commission in writing about whether the public utility accepts or waives acceptance
9 of the order. If the public utility does not make the notification by the deadline
10 specified in the order, the public utility is considered to have waived acceptance of
11 the order.

12 (b) If the public utility accepts the order, then, in all future rate-making
13 proceedings regarding the public utility, the order shall be binding on the commission
14 in its treatment of the recovery of the capital costs of the facility that is subject to the
15 order and the commission may not consider the order or the effects of the order in its
16 treatment of the recovery of any other cost of the public utility.

17 (bm) If the public utility waives or is considered to have waived acceptance of
18 the order, the commission shall withdraw the order and consider the capital costs of
19 the facility in all future rate-making proceedings in the same manner as the
20 commission considers capital costs for which no order has been issued under this
21 section.

22 (c) The commission may not require a public utility to apply for or accept an
23 order under this section.

(4) RULES. The commission shall promulgate rules for administering this section, including rules specifying the information that must be included in an application for an order under this section.

SECTION 3. 196.39 (5) of the statutes is created to read:

196.39 (5) This section does not apply to an order issued under s. 196.371.

SECTION 4. Nonstatutory provisions.

(2) PROPOSED RULES. The public service commission shall submit in proposed form the rules required under section 196.371 (4) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th month beginning after the effective date of this subsection.

SECTION 5. Effective dates. This act takes effect on the first day of the 4th month beginning after publication, except as follows:

(1) SECTION 4 (2) of this act takes effect on the day after publication.

(END)